

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

JOSEPH D'ANNA AND
JEANETTE D'ANNA

VS.

BALBOA INSURANCE SERVICES, INC

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CIVIL ACTION NO. _____
JURY REQUESTED

DEFENDANT'S NOTICE OF REMOVAL

Defendant, Praetorian Insurance Company incorrectly sued as Balboa Insurance Services, Inc. ("Praetorian"), files this Notice of Removal pursuant to 28 U.S.C. §1441 and 1446, and as grounds for removal respectfully shows:

1. On August 18, 2014, Plaintiffs filed their Original Petition and initiated an action identifying as Defendants, Balboa Insurance Services, Inc. The proper Defendant is Praetorian Insurance Company, the entity that insured the Plaintiff's property at the time of the loss made the basis of this lawsuit. The Petition was filed in the 410th District Court of Montgomery County, Texas under Cause No. 14-08-09046 ("the State Court Action"). That cause of action is still pending. A copy of the docket sheet from the State Court Action is attached as Exhibit "A."

2. On August 25, 2014, Defendant Balboa Insurance Services, Inc. was served with Citation and Plaintiffs' Original Petition (Exhibit "B"). Defendant filed its Original Answer in the State Court Action (Exhibit "C") on August 28, 2014.

3. This Notice of Removal is filed within the thirty-day statutory time period for removal. 28 U.S.C. §1446(b). Copies of Plaintiffs' pleading filed in the State Court Action or orders issued by the state court, prior to this Notice of Removal, are attached as Exhibits "A", "B" and "C".

4. Based upon the allegations in Plaintiffs' Original Petition, the Plaintiff claims to have suffered damage to their home which they claim was caused by a hail/wind storm occurring on April 27, 2013. Plaintiffs are seeking recovery of benefits under a homeowners policy issued by Praetorian Insurance Company which provided coverage to Plaintiffs for covered losses to their property located at 6635 Woodland Oaks in Magnolia, Texas. Plaintiffs also seek additional damages under the Insurance Code, Fraud, and DTPA as well as attorneys' fees. Plaintiffs have plead that they are seeking damages in excess of \$100,000 but less than \$200,000. The amount in controversy, exclusive of interest and costs, is believed to exceed \$75,000.

5. Plaintiffs are Texas residents who reside in Montgomery County (Exhibit "A").

6. Defendant, Balboa Insurance Services, Inc. is a Corporation incorporated in the State of California with its principal place of business in Irvine, California.

7. Defendant Praetorian Insurance Company is a corporation presently incorporated in the State of Pennsylvania with its principal place of business in Harrisburg, Pennsylvania.

8. Plaintiffs are citizens of Texas. Balboa Insurance Services, Inc. is a citizen of California and Praetorian Insurance Company is a citizen of Pennsylvania. Because diversity exists among the parties and the amount in controversy exceeds \$75,000, this Court has subject matter jurisdiction under 28 U.S.C. §1332. As such, this removal action is proper.

9. Pursuant to 28 U.S.C. §1446(d), Praetorian Insurance Company incorrectly sued as Balboa Insurance Services, Inc. incorrectly has filed a copy of this Notice of Removal with the clerk of the state court in which the action has been pending, and has given notice thereof to all parties and all counsel of record.

10. On these grounds, Praetorian Insurance Company incorrectly sued as Balboa Insurance Services, Inc. has removed this cause of action to the United States District Court for the Southern District of Texas- Houston Division.

Respectfully submitted,

By: */s/ Christopher W. Martin*

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CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the above pleading has been forwarded via facsimile on this the 5th day of September, 2014 to:

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